

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Emergency Broadband Benefit Program)	WC Docket No. 20-445
)	
)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

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Competitive Carriers Association (“CCA”)¹ respectfully submits these comments in response to the Commission’s public notice seeking input on the Commission’s implementation of the “Emergency Broadband Benefit Program, under which eligible households may receive a discount off the cost of broadband service and certain connected devices during an emergency period relating to the COVID-19 pandemic.”² CCA strongly supports the Emergency Broadband Benefit Program (“EBB Program”) and appreciates the Commission’s proactive efforts to carry out Congress’s vision for the EBB Program.

INTRODUCTION AND SUMMARY

The Commission should implement the EBB Program with several principles in mind. Congress enacted the statute to address an urgent need for millions of Americans occasioned by the unprecedented COVID-19 pandemic. Given the serious and pressing circumstances and

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers, as well as vendors and suppliers that provide products and services throughout the mobile communications supply chain.

² *Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, Public Notice, DA 21-6, WC Docket No. 20-445 (rel. Jan. 4, 2021) (“*Public Notice*”); see Consolidated Appropriations Act, 2021, H.R. 133, div. N, tit. IX, § 904(b)(1) (2020) (the “Act,” reproduced in Appendix to *Public Notice*).

limited-term nature of the program, the Commission should be mindful not to erect unnecessary barriers to participation by broadband providers, particularly by wireless providers that may be able to provide connectivity more quickly and efficiently in many circumstances. To promote rapid and efficient implementation, the Commission should provide a clear, streamlined path for participants to become registered for the Program in a timely manner, including clarity on non-Eligible Telecommunications Carrier (“ETC”) participation. Further, the EBB Program should leverage existing functions and databases, such as the National Verifier and National Lifeline Accountability Database (“NLAD”) to the greatest extent possible to streamline the eligibility and reimbursement process. The Commission also should provide participating providers with maximum flexibility to offer plans based on their capabilities and resources, and that best meet the needs of their communities. Finally, the Commission can promote a successful program through clear and regular communications with participating broadband providers, including regular updates on the use of funding.

CCA looks forward to working with the Commission to implement this vital program and ensure its success.

DISCUSSION

I. THE COMMISSION’S EBB PROGRAM RULES SHOULD REFLECT THE IMPORTANCE OF WIRELESS BROADBAND IN CONNECTING AMERICANS DURING COVID-19

The EBB Program, as defined by the Act, will deliver emergency funding to consumers by reimbursing broadband providers that apply a monthly discount to the actual amount charged

for broadband internet access service. The definitions in the Act are very broad, including both wired and wireless broadband providers alike.³

That is for good reason. Wireless connectivity often can be deployed more quickly and efficiently to provide emergency connectivity. Indeed, for many people in many areas of the country, wireless broadband is the only realistic option for getting or staying connected. Over the course of the COVID-19 pandemic, Americans have relied on their wireless connections more than ever with weekly data use, for example, increasing over previous levels nearly 30%, by July 2020.⁴ And the Commission has catalogued individual efforts by many companies, both wired and wireless service providers, that went beyond even the commitments in the Keep Americans Connected Pledge so that consumers could stay connected and keep up with remote work, virtual learning, socializing with friends and family, and much more.⁵

As the Commission implements the Act and establishes the EBB Program, it should ensure that Americans who access the internet via wireless broadband receive the full benefit of the Program. Thus, for example, “associated equipment” eligible for reimbursement should be interpreted broadly to encompass customer-premises equipment for wireless services, such as Wi-Fi hotspots and routers, alongside modems.⁶ These pieces of equipment are essential for many Americans in making their broadband connections accessible in the living rooms, kitchens, and bedrooms that have become makeshift classrooms and workplaces.

³ See Act § 904(a)(1)-(2) (defining “broadband provider” and incorporating by reference the definition of “broadband internet access service” from 47 C.F.R. § 8.1(b)).

⁴ See CTIA, *The Wireless Industry Responds to COVID-19*, <https://www.ctia.org/covid-19> (last visited Jan. 19, 2021).

⁵ See FCC, *Companies Have Gone Above and Beyond the Call to Keep Americans Connected During Pandemic*, <https://www.fcc.gov/companies-have-gone-above-and-beyond-call-keep-americans-connected-during-pandemic> (last updated Oct. 14, 2020).

⁶ See *Public Notice* at 8; Act § 904(a)(7).

Likewise, CCA encourages the Commission to clarify that the definition of “connected device” includes smartphones.⁷ The Commission proposes that connected devices “be expected to support video conferencing platforms and other software essential to ensure full participation in online learning,”⁸ and most smartphones available today meet that requirement. Limitations on the utility of a smartphone for video conferencing functions typically stem from the broadband connection available, rather than any quality of the smartphone itself. Indeed, the primary distinction between a smartphone and a typical tablet is that the former can do *more* than the latter, including placing calls using traditional mobile voice service. The Commission should allow for reimbursement of devices that meet minimum system requirements to support video conferencing platforms and online learning functions, without unnecessarily excluding devices because, for example, they can also place voice calls.⁹

II. THE COMMISSION SHOULD IMPLEMENT THE EBB PROGRAM IN AS SEAMLESS A MANNER AS POSSIBLE TO DISTRIBUTE FUNDS QUICKLY TO AMERICANS IN NEED

The Act makes plain that the EBB Program is intended to address as soon as possible the unique challenge of helping Americans become and remain connected to broadband despite the COVID-19 pandemic. Congress provided the Commission only 60 days after the date of the Act’s enactment to promulgate implementing regulations for the EBB Program.¹⁰ The EBB Program provides benefits only during the “emergency period”—*i.e.*, until 6 months after the termination of the Secretary of Health and Human Services’ determination “that a public health

⁷ See *Public Notice* at 8; Act § 904(a)(4).

⁸ *Public Notice* at 9.

⁹ See *id.*

¹⁰ Act § 904(c)(1).

emergency exists as a result of COVID-19”¹¹—or until there are no remaining appropriated funds.¹² And the Act directs the Commission to establish an “expedited approval process” for participating providers.¹³ The Act thus calls for swift action to deliver EBB Program benefits to the American people, and that directive should guide the Commission’s resolution of many implementation questions in the *Public Notice*. The Commission should therefore implement streamlined processes to approve provider participation, leverage existing systems to confirm household eligibility, and provide flexibility and transparency to providers participating in the program to ensure that the Act’s objectives are met.

A. The Commission Should Adopt a Streamlined Process to Approve Provider Participation in the EBB Program

For providers who participate in the EBB Program, an expedited approval process will be critical to providing a meaningful emergency benefit to their consumers. CCA urges the Commission to establish a streamlined process by which providers elect to participate in the EBB Program and confirm their eligibility. The election likely need not be more detailed than the Commission’s proposal in the *Public Notice*.¹⁴ For existing ETCs, for example, authorization should be automatic.

The Commission’s process for approving the participation of broadband providers who are not ETCs either at all or in a particular area should be simple and geared toward ensuring that the companies are legitimate broadband providers. Approving these non-ETCs’ participation efficiently is important for many reasons, including to ensure that their consumers receive the

¹¹ Act §§ 904(a)(8), (b)(1).

¹² See *Public Notice* at 13.

¹³ Act § 904(d)(2) (capitalization altered).

¹⁴ *Public Notice* at 2.

EBB Program benefits before the appropriated funds are exhausted or nearly exhausted.

Congress thus required the Commission to “automatically approve as a participating provider a broadband provider that has an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse.”¹⁵

To the extent that these broad or general terms invite interpretation by the Commission, such as what programs are “widely available,”¹⁶ the Commission should apply them broadly rather than tax its own resources and potentially deter participation by interested, legitimate providers by requiring the submission and review of detailed information. In particular, an established program’s being “widely available” should be determined at the level of the provider’s service area, rather than some geographic area like an entire state or region of the country. Small and regional carriers are well-suited to meet the goals of the EBB Program and indeed may be better positioned to understand the needs of the local communities in which they live and work. The Act’s requirement that a provider have a “widely available” program as of April 1, 2020 is plainly to ensure that providers receiving this streamlined treatment have already been offering service broadly to consumers in their area.

Similarly, the immediate need for relief counsels against requiring extensive review and approval of compliance plans before providers may even begin participating in the EBB Program.¹⁷ Preventing waste, fraud, and abuse is important here just as in other benefit programs, but the laudable goals of preventing waste, fraud, and abuse should not inadvertently

¹⁵ Act § 904(d)(2)(B).

¹⁶ See *Public Notice* at 4.

¹⁷ See *id.* at 4-5.

lead to substantial barriers to participation to meet the urgent need occasioned by a once-in-a-lifetime pandemic. One way to strike the appropriate balance would be to rely on certifications of compliance signed under penalty of perjury, as is typical in other funding programs.¹⁸

The Commission also asks several questions regarding how it should process “applications seeking automatic approval in one or more states.”¹⁹ Here, too, the Commission’s approach should make approval as automatic as possible on the front end. The Act’s aim is to ensure that participating providers are legitimate broadband providers with offerings to eligible households.²⁰ As discussed above, CCA encourages the Commission to interpret those terms broadly and clearly to encourage participation by a wide array of broadband providers and to facilitate efficient review of applications. The Commission can establish processes for verifying submitted information and, again, rely on certifications regarding the accuracy of information establishing the right to automatic approval.

B. The Commission Should Leverage Existing Systems and Models to the Extent Possible for Eligibility Determinations, Enrollment, and Reimbursement Processes

Relying on existing databases and allowing carriers to leverage their existing back office systems to determine eligibility of households, enroll consumers, and process reimbursements, will allow providers to meet the urgent need Congress was targeting much faster than if providers are required to create new programs for which they may not have the resources to devote. CCA agrees with USTelecom that the Commission should leverage existing models and

¹⁸ See, e.g., 47 C.F.R. § 54.416 (describing eligible telecommunications carriers’ “annual certifications, under penalty of perjury, relating to the Lifeline program”).

¹⁹ *Public Notice* at 5.

²⁰ See Act § 904(d)(2)(B).

resources from the Lifeline program and keep the EBB Program simple and flexible wherever possible.²¹

The Act contemplates verifying eligibility of households using the National Verifier or NLAD.²² CCA encourages the Commission to rely on these resources to the greatest extent possible to automate eligibility, enrollment, and reimbursement. In particular, the Commission should make every effort to leverage these established systems to verify eligibility, including for the new categories of eligibility proposed in the Act that are not currently addressed in those databases, such as those who are eligible to receive benefits for free and reduced lunch programs, have experienced substantial loss of income since February 29, 2020, and have received a Federal Pell Grant. Some providers may not possess the administrative infrastructure to independently verify eligible consumer particularly in novel categories. Making adjustments to the National Verifier and NLAD to examine additional criteria, rather than expecting providers to hastily implement new processes necessary to achieve this goal, is in the Commission's, providers', and consumers' best interests to ensure that EBB subsidies are distributed in the manner directed by Congress.

To the extent that participating providers are themselves verifying new categories of eligible providers, the Commission should implement broad safe harbors that protect providers from good faith efforts to verify eligibility in novel circumstances, given the inevitable paperwork errors that may arise. The Act expressly contemplates both the use of “alternative verification process[es]” through Commission approval and reliance “on a school to verify the

²¹ See Letter from Jonathan Spalter, President & CEO, USTelecom—The Broadband Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-445, at 1-2 (filed Jan. 4, 2021).

²² See Act § § 904(b)(2)(A).

eligibility of a household.”²³ Recognizing the challenges in verifying new eligible recipients, Congress established a safe harbor for participating providers that “relied in good faith on information provided to such provider to make the verification required by subsection (b)(2).”²⁴ To implement the good-faith standard,²⁵ the Commission should permit providers to rely on consumer-provided documentation and certifications from schools and other entities absent specific reason to question the veracity of the information on eligibility, so that providers can focus time and resources on delivering urgently-needed relief to eligible households.

C. The Commission Should Afford Flexibility to Participating Providers in Determining the Scope of Their Participation

To promote broad participation and help ensure a successful EBB Program, the Commission should allow providers flexibility to determine the scope of their participation. Depending on the capabilities of a provider and the needs of the community, a carrier may wish to offer programs that address certain categories of eligibility but not others. An existing Lifeline provider, for example, that lacks resources to support additional categories of eligibility should be able to participate at the level that they choose. Competitive offerings from different providers indeed may create additional choices for consumers to select the plan that best meets their needs.

The Commission also should be mindful that the transition when the funding runs out may create significant challenges for both providers and consumers. The limited nature of the program creates substantial risk of “bill shock” if customers are receiving a \$50 EBB Program benefit and then it suddenly ceases or transitions down to \$9.25 per month for Lifeline

²³ *Id.* §§ 904(b)(2)(B)-(C).

²⁴ *Id.* § 904(j).

²⁵ *See Public Notice* at 12.

participants. Further, the possibility of an abrupt end to the subsidy may even deter eligible consumers from taking advantage of the Program at the outset. The Commission should consider an appropriate transition period, and in any event should allow participating providers flexibility to determine when and how they will conclude their participation in the program.

D. The Commission Should Strive for Transparency to Providers and Consumers throughout the Administration of the EBB Program

Finally, a successful EBB Program will depend on transparent and regular communications between the Commission and participating providers. Of particular importance will be regular reports to providers on the amount of money that has been disbursed or approved for disbursement so that participants can anticipate and plan for the winding up of the program. The Commission also should be clear about when providers will be reimbursed and approximately when funding will cease. Because participating providers are reimbursed after their services are delivered (and consumers have received discounts), this information will be important so that providers can make informed decisions about their participation in the EBB Program and communicate effectively to their customers. Providers often require lead time to notify consumers that their benefits are expiring, and therefore it is important that the Commission be able to provide this information with ample time for consumers to make informed choices about their services. The Commission should consider weekly updates or as close to real-time updates as possible to maximize providers' ability to plan for and support eligible participants.

Finally, the Commission can play an important role in promoting the existence of EBB Program offerings and clarifying to consumers that these offerings are government-sponsored programs. The Commission also should allow providers to use a wide array of avenues to promote the availability of offerings to existing and potential participants in the EBB Program.

Working in partnership, the Commission and industry can work together to promote the availability of these vital offerings and promote adoption by those in need during these challenging times.

CONCLUSION

The EBB Program holds significant promise to help eligible households become and stay connected during the disruption of the COVID-19 pandemic. To deliver on that promise, the Program must deliver benefits to eligible consumers quickly and efficiently. CCA thus urges the Commission to implement the Program in a manner that allows a broad array of providers to participate and that incentivizes their participation through clear, simple rules for approval and eligibility determinations. CCA looks forward to continued engagement with the Commission as it completes this important work.

Respectfully submitted,

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